



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/659,932

09/11/2003

John F. Kennedy

GEOP-01000US1  
MCF/DJB

5061

7590

04/26/2006

EXAMINER

PALADINI, ALBERT WILLIAM

Martin C. Fliesler  
FLIESLER DUBB MEYER & LOVEJOY LLP  
Fourth Floor  
Four Embarcadero Center  
San Francisco, CA 94111-4156

ART UNIT

PAPER NUMBER

2125

DATE MAILED: 04/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/659,932

Applicant(s)

KENNEDY ET AL.

Examiner

Albert W. Paladini

Art Unit

2125

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 11 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-196 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-196 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>9/11/03</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 4-6, 15, 23, 29-84, 91-93, 102, 126-196 are rejected under 35

U.S.C. 112, first paragraph, as failing to comply with the written description requirement.

The claim(s) contains subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Paragraph 25 states that "A defaults component 108 can automatically populate the model with intelligent defaults" and a list of 12 items are provided on page 6. In the previous discussion through paragraph 24, a model of the building is obtained. There is not explanation of how these 12 listed defaults are used to effect or change the model. The use of the term "default" in this context has not been clearly explained. Normally default values in engineering are the variable values assumed by the elements unless modified. The listing of defaults on page 6, which includes items such as HVAC equipment, schedules of occupancy, does not relate to the definition of default. In addition, there is no explanation of how these elements modify, alter, improve, or effect the model described through paragraph 24.

Appropriate correction and clarification is required.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

4. Claims 103-115 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

#### **Claim 103**

The preamble recites "A method for allowing a user to interact with content using a computer network". The meaning of the term "content" is not defined in the claim or in the specification.

The first step recites "automatically providing the content to the user based on a criteria, associated with the content, and wherein that least one of the criteria is satisfied based on a representation of a building." As stated previously, content is not defined. There is no explanation of "a set of criteria associated with the content". It also appears to be redundant to provide content, which is based upon the content.

Appropriate correction and clarification is required.

#### ***Claim Objections***

5. Claims 85-90 are objected to under 37 CFR 1.75(c), as its last limitation being of improper dependent form.

Art Unit: 2125

The limitation "wherein the 3D representation of the building is a comprehensive and accurate geometric representation of the building" is a general comment on the outcome of the simulation, but it does not add any limitation to the optimization or simulation.

Appropriate correction and clarification is required.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1, 2, 7-14, 16-22, 24-28, 85-90, 94-101, and 116-125 rejected under 35 U.S.C. 102(e) as being anticipated by Gruber (6439469).

In (C15, L37-42), Gruber discloses a room model generated in a first process, which contains geometric information about the rooms in a building. This first process information is introduced in (C15, L23-25) In (C15, 29-31-36), Gruber utilizes this room model in a second process or means for optimizing the energy consumption using linear or quadratic programming techniques.

Art Unit: 2125

8. Claims 1, 2, 7-14, 16-22, 24-28, 85-90, 94-101, and 116-125 rejected under 35 U.S.C. 102(e) as being anticipated by Saebi (6721684).

In (C18, L18-41), Saebi discloses a method and system of providing a first representation of a building using a finite element analysis program and a CAD drawing system. In (C18, L46-47), Saebi discusses the use of a second process or processor to perform energy analysis of the building by running analysis of the thermal loads to achieve the objective stated in (C1, L53-55) of lowering the energy consumption of the building.

#### ***Relevant Prior Art***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Woolard (6178362) discloses a system for managing the facilities and the energy consumption of a physical plant is provided in which the physical plant has one or more facilities and buildings in which each building and facility has one or more devices which operate and consume energy. To accomplish the management of the physical plant, the system may gather information about the energy consumption and operation of each device in the physical plant and control the facilities, buildings and devices in the physical plant, based on the energy consumption and operating information for each device, by communicating the energy consumption and operating data in real-time between the devices and the energy and facility management apparatus. The system may also include a user interface for requesting energy consumption and operation data about one or more devices and for viewing the energy

consumption and operation data about the physical plant. A method for energy and facility management is also provided.

Carr (6968295) discloses a system for monitoring the energy usage of a building or and in one embodiment, a software program is utilized to provide the information or data for the initial settings and parameters acquired in the survey and audit forms to create a model of the energy-usage throughout the building. In creating a model of the energy-usage of the facility, the software includes program instructions that account for the interactions between the building construction, the HVAC system, the lighting system, the refrigeration system, miscellaneous equipment, etc. in the facility.

Osann (6993417) discloses an energy sensing and feedback system whereby a multitude of EMAC points are distributed throughout multiple rooms, and the location of each EMAC point is identified in order for software running on a local PC to perform profiling of data relating to energy consumption.

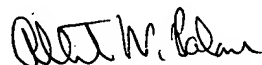
Art Unit: 2125

10. Any inquiry concerning this communication or earlier communication from the examiner should be direct to Albert W. Paladini whose telephone number is (571) 272-3748. The examiner can normally be reached from 7:00 to 3:00 PM on Monday, Tuesday, Thursday, and Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Leo P. Picard, can be reached on (571) 272-3749. The official fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

April 14, 2006



Albert W. Paladini  
Primary Examiner  
Art Unit 2125